

# **REMARKS**

## **I. DRAWINGS**

The indication that the changes in the drawings are acceptable on page 2 of the Office Action is acknowledged. Formal drawings will be submitted at a later date. Abeyance of any requirement for formal drawings at the time of filing this amendment is respectfully requested.

## **II. CHANGES IN THE SPECIFICATION AND ABSTRACT**

The term "releasable" in the specification and abstract was objected to under 35 U.S.C. 132 (a) as being "new matter" on page 2 of the Office Action. This term has been deleted from the amended specification and abstract, which were filed with the amendment dated September 15, 2006.

However, as noted on page 2 of the Office Action, the specification provides basis for detachment of the air nozzle attachment 8 after it has been connected over the blower opening by the snap coupling. The specification also provides basis for the wording that the air nozzle attachment can be again detached from the blower opening after it is connected with it. The basis is found on page 3, lines 19 to 22, of the originally filed U.S. specification. Basis is also provided by the original claim 8.

Some other minor changes in wording of the specification and abstract have been made to provide a wording that is better supported by the wording in the

originally filed specification. The changes in the prepositions preceding the term “blower opening” are supported by the wording in the originally filed claim 1 and also the above-amended claim 1.

Withdrawal of the objections to the specification and the abstract under 35 U.S.C. 132 (a) is respectfully requested in view of the above changes in the specification and abstract.

### **III. REJECTION UNDER 35 U.S.C. 112, 1<sup>ST</sup> PARAGRAPH**

Claim 30 was rejected under 35 U.S.C. 112, 1<sup>st</sup> paragraph, for failing to comply with the written description requirement.

Claim 30 has been canceled, obviating the rejection of claim 30 on these grounds. The term “releasable” is no longer used in the claims. However the corrected wording in accordance with page 3, lines 19 to 22, of the originally filed specification has been included in the main independent claim 24 so that claim 24 is limited to an air nozzle attachment 8 that is connectable to the blower opening 7 by means of a snap coupling but can be detached again. This latter wording is fully supported by and present in the original disclosure.

For the foregoing reasons amended claim 24 should not be rejected under 35 U.S.C. 112, first paragraph, for failing to comply with the written description requirement.

#### IV. REJECTION UNDER 35 U.S.C. 102 (b)

Claims 24, 27, and 29 to 30 were rejected under 35 U.S.C. 102 (b) as anticipated by Guenin (EP 0970633).

Claim 24 has been amended to include the feature that the air nozzle attachment 8 can be detached again after it is connected over the blower opening 7. Also claim 24 has been amended to limit the claimed air nozzle attachment 8 to an air nozzle attachment that is connectable to the blower opening by means of a snap coupling.

EP '633 does disclose a hair dryer 1 with a fan 5 and a heater 12. It does produce a hot-air stream 9 and a cold-air stream 11. It does have a detachable air nozzle attachment 23 with "orifices" (equivalent to applicants' flat nozzles) 22, 26, as shown in figs. 1 and 2 of the EP reference. See paragraph [0049] of EP '633.

However the hair dryer of EP '633 has significant structural differences from the device claimed in applicants' amended claim 24.

First, there is **no** disclosure or suggestion in EP '633 that the air nozzle attachment disclosed in EP '633 is **detachable** after it has been connected on the blower opening as claimed in the applicants' amended claim 24. Furthermore there is no reason why the air nozzle attachment of EP '633 should be detached because EP '633 does not disclose a second type of air nozzle attachment that can be used to replace the air nozzle attachment with the hot and cold air streams. For example, see paragraph [0023], which states that the single part or twin nozzle 23 with orifices 22,

26 is “fixed” or “attached” to the body of the air dryer so that it cannot be axially moved. There is no teaching that it can be again detached.

Second, claim 24 claims an air nozzle attachment 8 with a **central** conduit entrance 11 and a **coaxial** conduit entrance 12 (see the last four lines of claim 24). This means that the conduit entrance for the hot air has a common center with the conduit entrance for the cold air. See applicants’ fig. 6. In contrast, in the air nozzle attachment 23, which is the preferred embodiment of Guenin, the conduit entrance for the hot air does not have a common center with the conduit entrance for the cold air as shown in fig. 3b of EP ‘633. Instead the conduit entrance 25 shown in fig. 3b for the hot hair is completely shifted to one side of the air nozzle attachment 23 and conduit entrance 24 for the cold air is on the other side of the air nozzle attachment. They do not have a common center and one is not coaxial with the other as claimed in applicants’ claim 24.

The foregoing difference in the structure of the entrance of the air nozzle attachment of applicants and of EP ‘633 is more important than one might first think because the structure shown in EP ‘633 results in disadvantageous requirements for the structure of the dryer to which it is connected. In the dryer shown in EP ‘633 the hot-air flow 9 and cold-air flow 11 of EP ‘633 do not have a common central axis. The axis for the hot-air flow 9 is inclined downward in fig. 2 with respect to the axis for the cold-air flow 6 in fig. 2, which is not the case for the air flows in the applicants’ dryer according to lines 2 and 3 of amended claim 24. In the embodiment of figs. 1 and 2 shown in EP ‘633 the hot-air conduit or tube 8 including the electrical resistance wire must rotate because the conduit entrances are not coaxial when the air nozzle

attachment 23 with the twin orifices 22, 26 rotates, as disclosed in EP '633. As a result the internal hot-air conduit with the heater wire in the dryer of EP '633 is a moving part in operation of the dryer of EP '633, which is subject to all the disadvantages of a moving part. However because the conduit entrances of applicants' claimed air nozzle attachment are coaxial, the partition 22 shown in applicants' figure 1 does not rotate and thus is not subject to the disadvantages of a moving part.

In addition, because of that the hair dryer of EP '633 fails to correct the fundamental problem that is corrected by the structure of the air nozzle attachment and the dryer of the applicants as claimed in claim 24. One side of the hair dryer of EP '633 remains comparatively hotter because the hot-air flow through duct 8 is inclined toward the side as shown in fig. 2 and 3b of EP '633. Thus the hotter side of the air nozzle attachment 23 of EP '633 could still burn the individual that is treated during the hairstyling. In contrast in the air nozzle attachment 8 the hot air flow at least in the vicinity of the conduit entrances is surrounded by a concentric cold air flow.

It is well established that each and every limitation of a claimed invention must be disclosed in a single prior art reference in order to be able to reject the claimed invention under 35 U.S.C. 102 (b) based on the disclosures in the single prior art reference. See M.P.E.P. 2131 and also the opinion in *In re Bond*, 15 U.S.P.Q. 2nd 1566 (Fed. Cir. 1990).

The following important features and limitations of the device claimed in applicants' amended claim 24 distinguish it from that disclosed in Guenin (EP '633):

(1) the air nozzle attachment 8 can be detached again from the blower opening after it is connected via the snap coupling; there is no teaching in Guenin that the corresponding nozzle attachment of EP '633 can be detached after the dryer is manufactured and there would be no motivation to do that from the disclosure in EP '633; and

(2) the conduit entrances of the air nozzle attachment 8 for hot air and cold air flows are coaxial according to applicants' claim 24, but the centers of the corresponding conduit entrances of the air nozzle attachment of EP '633 are offset from each other and not coaxial, which leads to important disadvantageous restrictions on the internal dryer structure in the case of EP '633.

For the forgoing reasons and because of the changes in claim 24, withdrawal of the rejection of amended claims 24, 27, and 29 to 30 under 35 U.S.C. 102 (b) as anticipated by EP '633 (Guenin) is respectfully requested.

## **V. OBVIOUSNESS REJECTIONS**

### **1. EP 0 970 633 A1**

Claims 25 to 28 and 31 to 33 were rejected under 35 U.S.C. 103 (a) as obvious over Guenin (EP 0 970 633 A1).

Guenin (EP '633) does not disclose or suggest that their disclosed air nozzle attachment 23 is detachable from the air dryer. Furthermore there is no good reason that the air nozzle attachment should be detached in the case of Guenin (EP '633) because EP '633 does not disclose a second nozzle attachment that can be used

together with the remaining portion of the blower.

It is well established by many U. S. judicial decisions that to reject a claimed invention under 35 U.S.C. 103 there must be some hint or suggestion in the prior art of the modifications of the disclosure in a prior art reference or references used to reject the claimed invention, which are necessary to arrive at the claimed invention. For example, the Court of Appeals for the Federal Circuit has said:

"Rather, to establish obviousness based on a combination of elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant...Even when obviousness is based on as single reference there must be a showing of a suggestion of motivation to modify the teachings of that reference.." *In re Kotzab*, 55 U.S.P.Q. 2<sup>nd</sup> 1313 (Fed. Cir. 2000). See also M.P.E.P. 2141

There is no hint or suggestion in EP '633 that the air nozzle attachment 23 disclosed in that reference should be detachable or that it can be detached from the snap coupling after it is attached. Unless the snap coupling is specifically designed for that purpose the coupling and/or the nozzle attachment might be broken if one tried to remove it from the blower opening in EP '633. There is no disclosure in EP '633 that the snap coupling has been designed so that the nozzle attachment can be detached after it has been connected to the dryer.

There is also no hint or suggestion that the conduit entrances for the hot air and cold air in the nozzle attachment should be coaxial with each other. In the preferred embodiment shown in the drawing of EP '633 they are offset from each other with one on one side of the nozzle, while the other is on the other side of the

nozzle. This results in an air nozzle attachment that has a hotter side than the corresponding side of applicants' air nozzle attachment. Applicants' air nozzle attachment is different in its structure and better because it avoids a hot side that can burn the person that is treated with the dryer. Nevertheless it produces side-by-side streams of hot and cold air and thus avoids the disadvantages of prior art dryers that protect a treated individual from burning, namely too much cold air flow (see the background section on page 1 of applicants' specification).

With respect to specific dependent claims if extra protection from burning is desired the features of dependent claim 27 can be employed.

For practical reasons the features of claim 28 (equal length nozzles 13, 14) are desirable.

The features of claims 32 and 33 contribute to the purpose of the air nozzle attachment structure according to claim 24 and provide additional protection from burning. It is granted that in the plumbing arts the color blue is used on parts that remain cold in operation and the color red is used on parts that become hot during operation, but applicants' claimed device of claim 24 is not in the plumbing arts, but instead is in the cosmetic arts. Color coding devices used in the cosmetic arts is not common. Perhaps a prior art references from the cosmetic arts should be cited to support the color coding features of claims 32 and 33.

The color coding claimed in claims 32 and 33 is not a matter of "design choice". The two parts of the air nozzle attachment could not be the same color. They must be different or have different appearance so that they can be distinguished. There is no choice about that fact that they must appear different from each other



according to claim 32.

For the foregoing reasons it is respectfully submitted that amended claims 24, 29 to 30, and 34 should **not** be rejected under 35 U.S.C. 103 (a) over Guenin (EP 0 970 633 A1).

Furthermore withdrawal of the rejection of claims 25 to 28 and 31 to 33 under 35 U.S.C. 103 (a) as obvious over Guenin (EP 0 970 633 A1) is respectfully requested.

## **2. EP 0 970 633 A1 in view of G9100860.3**

Claim 34 was rejected as obvious under 35 U.S.C. 103 (a) over Guenin (EP '633) in view of Hubbuch (G9100860.3 -- referred to below as G '860.3).

Claim 34 has been amended to further distinguish its subject matter from the prior art. Claim 34 now includes all the features and limitations of amended claim 24 except for the snap coupling means.

Guenin has been described above in connection with the other rejections over the prior art.

There is no hint or suggestion in EP '633 that the air nozzle attachment 23 disclosed in that reference should be detachable or that it can be detached from the snap coupling after it is attached.

Also the conduit entrances of the first air nozzle attachment 8 for hot air and cold air flows are coaxial according to applicants' amended claim 34, but the centers of the corresponding conduit entrances of the air nozzle attachment of EP '633 are offset from each other and not coaxial, which leads to important disadvantageous

restrictions for the hair dryer.

G '860.3 discloses a dryer with two separate heating coils 8a, 8b on opposite sides of a central partition 10. The two heating coils are separately energized and controlled so that both produce heat, so that one can produce heat but not the other, or so that neither produces heat. For that reason the hair dryer of G '860.3 can produce a cold-air stream and hot-air stream, which are side-by-side. The hair dryer of G '860.3 can also produce two cold-air streams and two hot-air streams, which are side-by-side.

Also G '860.3 discloses an air nozzle attachment 3 that attaches to the blower opening. The air nozzle attachment 3 has a central partition 12 corresponding to the partition 10 in the body of the hair dryer, which keeps the two air flows produced inside the dryer separate as they pass through the air nozzle attachment 3.

However G '860.3 has a comparatively short disclosure and the connection of the air nozzle attachment 3 to the body of the blower is only diagrammatically indicated without realistic detail in fig. 2.

G '860.3 does not disclose or suggest that the air nozzle attachment 3 can be detached again from the blower opening after it is connected to the body of the hair dryer. Furthermore it does not disclose any means of attaching the air nozzle attachment 3 with the blower opening. The disclosure of G '860.3 could be as easily interpreted as teaching that the air nozzle attachment could be fused or welded with the body of the hair dryer.

G '860.3 thus does not disclose or suggest one modification of the disclosures or EP '633 that is necessary to arrive at the air nozzle attachment as claimed in

amended claim 34, namely that the first air nozzle attachment 8 can be again detached from the body of the hair dryer after it has been mounted on or connected to the blower opening.

G '860.3 also does not disclose or suggest a first air nozzle attachment 8 that has conduit entrances of the air nozzle attachment 8 for hot air and cold air flows, which are coaxial as in the claimed attachment of applicants' amended claim 34. In the case of G '860.3 the centers of the corresponding conduit entrances of the air nozzle attachment of G '860.3 are on opposite sides of the partition 12, as shown in figs. 3 and 4 of G '860.3. The conduit entrances for the two air streams of G '860.3 are entirely separated from each other and do not even overlap in contrast to the **coaxial** conduit entrances of the first air nozzle attachment 8 of applicants' claim 34.

The two foregoing distinguishing features are not disclosed or suggested in either cited prior art references so that a combination of those prior art references does not result in the hair dryer of applicants' amended claim 34.

For the foregoing reasons withdrawal of the rejection of amended claim 34 under 35 U.S.C. 103 (a) over Guenin (EP '633), in view of Hubbuch, is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawing be further amended or corrected in formal respects to put this case in condition for final allowance, then it is requested that such amendments or corrections be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in

advancing the case to allowance, he or she is invited to telephone the undersigned at 1-631-549 4700.

In view of the foregoing, favorable allowance is respectfully solicited.

Respectfully submitted,

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